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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,895	12/04/2003	Alan Winig	D4824-00043	9605

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EXAMINER
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NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/727,895

Applicant(s)

WINIG ET AL.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19,20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09-13-2004</u> . | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

This final Office action is in response to (a) the amendment filed September 13, 2004, (b) the election filed December 31, 2004, and (c) the amendment filed March 14, 2005 by which claims 19, 20, and 22 were amended and claims 23, 24, and 26-28 were canceled.

#### *Election/Restriction*

Applicant's election without traverse of Group I, i.e., claims 19, 20, and 22, in the reply filed on December 31, 2004 is acknowledged.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,506,856 (Rich *et al.* '856).

Rich *et al.* '856 disclose an item holder *for use with a perforated panel (14)* whereby the item holder comprises a support portion (bottom half of Figure 2 and including 12 and 40) and an attachment portion (top portion of Figure 2 and including 22, 26, and 28) detachably engageable to the panel (at 14 - see Figure 3, at 17) whereby the attachment portion comprises a curved cantilevered strap (22), i.e., the strap is considered to be curved at the left side in Figure 2, provided at a first position (near 44) on the support portion (12) and a stop tab (24) located on

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an end of the attachment portion that is positioned above but spaced away from the first position; the attachment portion includes a slot (between 34 and 20 in Figure 2, i.e., above 28 in Figure 2) located opposite an end (the end of the strap is at the far left side of Figure 2) of the strap (22); the strap has a curved shape, i.e., the strap curves upwardly at the bottom side at the end of the left side of Figure 2; the strap (22) includes a first side (unnumbered - at 22 in Figure 2) and a second side (unnumbered - angle side opposite numeral 22 in Figure 2) that taper and thereby define a tapered cross-sectional profile and the strap defining a void (unnumbered - see area between hatch marked portions at the top of Figure 2).

### *Comments*

It is noted that each of the claims 19, 20, and 22 contain text that was previously deleted, i.e., in the amendment filed September 13, 2004 (which was deemed non-responsive). *For example*, the following recitations in the instant claims were previously deleted, (a) "connectable" in line 4 of claim 1, (b) "strap" in line 6 of claim 1, (c) "strap" in line 3 of claim 20, (d) "strap" in line 2 of claim 22, and (e) ", and wherein... of said strap" in lines 3-4 of claim 22. *However*, as written, the instant claims are definite but not consistent with the previous amendment.

### *Response to Arguments*

Applicant's arguments filed September 13, 2004 have been fully considered but they are not persuasive.

With respect to applicant's arguments (in the first full paragraph of page 9) that "Rich's support portion (22) is a non-curved hook or bracket. It could not, as postulated by the Examiner,

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be an equivalent structure to Applicant's cantilever, which acts to engage a portion of the perforated panel", it is noted that this argument is considered to be more limiting than what is actually being claimed and therefore is not commensurate with the scope of the claim, since the claim actually recites that the "attachment portion" is detachably engageable with the panel, not the "support portion" as argued by applicant.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

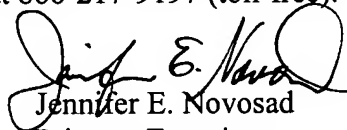
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
April 29, 2005